

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

CATCH CURVE, INC.,)	
)	
Plaintiff,)	Civil Action File No.
)	08-259
v.)	
)	
2POINT COMMUNICATIONS, INC.;)	
350 NICE, INC., AIRCOM, L.C.;)	
ACUMEN ASSOCIATES, INC.;)	
AMERICAN VOICE MAIL, INC.;)	
ARCOSOFT INC.; BAEDER CORPORATION;)	
BIT BY BIT COMPUTER CONSULTANTS, INC.;)	
COA NETWORK, INC.; COREN)	
TELECOMMUNICATIONS, INC.;)	JURY TRIAL
JON KRAHMER, individually and d/b/a)	DEMANDED
ELECTRASOFT; FLUENTT TECHNOLOGY LLC;)	
FREE DIGITS, LLC; GLOBAL ACCESS, INC.;)	
GOFAXER.COM, INC.; HOSTWAY)	
CORPORATION; INPHONIC, INC.; INTERNET)	
AMERICA, INC.; INTERPAGE NETWORK)	
SERVICES, INC.; INTERFAX US INC.;)	
LAUNCHFAX.COM, INC.; ATG TECHNOLOGIES,)	
INC. d/b/a PATLIVE; RINGDALE, INC.; SEPE INC.;)	
SHADOWSTORAGE INC.; SIMS COMPANY)	
d/b/a PAGE ONE NORTHWEST; SRFAX;)	
VITELITY COMMUNICATIONS, LLC;)	
XIFAX LIMITED; AND BOB COSTELLO,)	
d/b/a FAXTOPIA,)	
)	
Defendants.)	
)	

MOTION TO STAY

COMES NOW, Plaintiff Catch Curve, Inc. ("Catch Curve"), through its counsel of record, and for its Motion to Stay, alleges the following:

On June 25, 2008, Catch Curve filed its Original Complaint for patent infringement. Before serving any Defendant, Catch Curve amended its complaint and filed its First Amended

Complaint (DE # 9) on August 11, 2008. Prior to service of the amended complaint, the District Court for the Central District of California issued an Order granting summary judgment for the Defendant in *Catch Curve, Inc. v. Venali, Inc.*, Case No. CV 05-0482 DDP (“California case”) on August 12, 2008. A copy of that Order is attached to this motion as Exhibit A. The summary judgment decision in the California case was based largely on that Court’s *Markman* ruling. The California case involves the same patents that Catch Curve is asserting here.

The summary judgment opinion was adverse to Catch Curve. As a result, Catch Curve is planning an appeal of the California case to the Federal Circuit as soon as it is able to obtain a proper Order allowing it to do so. This appeal will either affirm or reverse the claim constructions in the California which resulted in summary judgment. By staying this case the Court will have the advantages of the Federal Circuit’s ruling, without expending substantial time and effort by conducting its own *Markman* hearing and ruling. Furthermore, the Defendants will not be required to expend resources to defend this action at this time. In conjunction with this motion, Plaintiff Catch Curve is sending individual notice to each Defendant advising them of Catch Curve’s intent to file its request to stay this matter. In the event any single Defendant wants to oppose this request, that Defendant will have adequate notice and can make an appearance in this matter for that purpose.

Plaintiff is requesting that the Court stay this matter in its entirety, including Plaintiff’s requirement to formally serve each Defendant with its First Amended Complaint. This request is made not for delay, but so that justice will be served. The parties will not be prejudiced by staying this matter.

WHEREFORE, PREMISES CONSIDERED, Plaintiff Catch Curve requests that the Court stay this matter pending resolution of the appeal of the California case.

This 25th day of August 2008.

Respectfully submitted,

PATTON, TIDWELL & SCHROEDER, L.L.P.

By: /s/ J. Kurt Truelove
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CERTIFICATE OF CONFERENCE

This motion is being filed prior to serving the Defendants with process; therefore, a conference on this motion has not occurred. Dated this 25th day of August 2008.

/s/ J. Kurt Truelove

J. Kurt Truelove

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this 25th day of August 2008.

/s/ J. Kurt Truelove

J. Kurt Truelove